

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

TODD A. D'ANTONI,

Plaintiff,

v.

UNITED STATES OF AMERICA

OPINION and ORDER

16-cv-398-wmc

90-cr-92-wmc

On February 21, 2019, the Court of Appeals for the Seventh Circuit reversed this court's judgment denying petitioner Todd D'Antoni's motion to vacate pursuant to 28 U.S.C. § 2255, instructing this court to grant his successive § 2255 motion and set this matter for resentencing. *D'Antoni v. United States*, 916 F.3d 658 (7th Cir. Feb. 19, 2019). On April 30, 2019, the court held a telephonic status conference, setting May 24, 2019, as the resentencing date. (Dkt. #33.) However, on May 3, 2019, the parties filed a Joint Motion for an Order Imposing a Stipulated Sentence of "Time Served." (Dkt. #34.) That motion will be granted in part.

In the joint motion, the parties ask the court to forego a re-sentencing hearing and enter an amended judgment that specifies a sentence of "time served" as of May 13, 2019, and a three-year term of supervised release, along with a residential reentry center condition of supervision and other revised conditions of supervision. They explain that D'Antoni's recalculated guidelines range (approved by the probation office) is 33-41 months and that the time D'Antoni has already served far exceeds that range. While the court will grant the motion for "time served," BOP needs seven days from the date this

order is signed to place Mr. D'Antoni in an appropriate residential reentry center. The parties also indicate that D'Antoni intends to request a hearing at a later date to address whether the court might modify the residential reentry center condition, to which the government does not object. Agreeing that this approach is appropriate, the court will (1) grant the motion in substantial part, (2) grant D'Antoni's successive § 2255 motion and (3) enter an amended judgment of conviction.

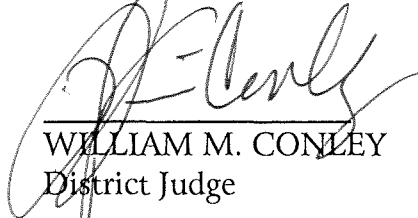
ORDER

IT IS ORDERED that:

- (1) The Joint Motion for an Order Imposing a Stipulated Sentence of "Time Served" as of May 13, 2019 (dkt. #34) is GRANTED IN PART, with the effective date seven days after the date this order is signed.
- (2) Todd A. D'Antoni's successive motion to vacate under § 2255 is GRANTED.
- (3) The court will enter an amended judgment of conviction in accordance with this order.

Entered this 10th day of May, 2019.

BY THE COURT:


WILLIAM M. CONLEY
District Judge